

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Application of: Monteverde)	CUSTOMER NO. 71130
)	
Serial No.: 10711992)	Group Art Unit: 3624
)	
Filed: October 18, 2004)	Confirmation No.: 5991
)	
Title: PEER-TO-PEER COMPLAINT SYSTEM AND METHOD)	Examiner: A. Miller
)	
Attorney)	
Docket No.: 35041-400500)	
)	
)	
)	

APPEAL BRIEF

Table of Contents

	<u>Page</u>
I. REAL PARTY IN INTEREST	3
II. RELATED APPEALS AND INTERFERENCES	3
III. STATUS OF CLAIMS	3
IV. STATUS OF AMENDMENTS	3
V. SUMMARY OF CLAIMED SUBJECT MATTER	3
VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL	4
VII. ARGUMENT	7
VIII. CONCLUSION	9
IX. CLAIMS APPENDIX	10
X. EVIDENCE APPENDIX	14
XI. RELATED PROCEEDINGS APPENDIX	15

This is an appeal from the decision of the Primary Examiner, dated October 14, 2009, finally rejecting claims 1-24 (the "Office Action"). A Notice of Appeal was filed on April 14, 2010.

No oral hearing is requested.

Authorization is hereby given to charge \$540 for the filing of the present Appeal Brief, and any additional fees, to Deposit Account No. 502896, and credit any overpayment thereto.

I. REAL PARTY IN INTEREST

The present application is assigned to Emergency 24, Inc., principal place of business in Chicago Illinois.

II. RELATED APPEALS AND INTERFERENCES

None.

III. STATUS OF CLAIMS

Claims 1-24 are pending in the application.

Claims 1-24 are finally rejected, are appealed, and are set forth in the Claims Appendix.

IV. STATUS OF AMENDMENTS

All amendments have been entered. Formal drawings were filed and accepted.

No amendments to the claims are made herein.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The claimed invention is *inter alia* a method of managing consumer complaints. The method includes the steps of receiving a complaint from a consumer in an electronic format regarding a merchant [300] and forwarding the complaint to the merchant for a merchant's response [400]. The complaint and a merchant's response are the displayed [500] on an Internet site. A plurality of ratings are received from third parties [700] in an electronic format indicating the third parties' opinions of righteousness of the merchant and/or the consumer regarding the complaint. An averaged numerical representation of the ratings is then displayed [900].

Another embodiment of the invention is a system for managing Internet consumer complaint. The system includes a central server for receiving an Internet consumer's complaint regarding the Internet consumer's interaction with an Internet merchant, and a means for forwarding the complaint in electronic format to the Internet merchant for any Internet merchant's response. The system also includes an Internet web site for displaying the complaint and any Internet merchant's response for Internet users other than said consumer or said merchant to opine as to the righteousness of the Internet consumer and/or the Internet merchant and a means for providing a numerical representation of the Internet users' opinions of righteousness and displaying it on the Internet web site.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner rejected claims 1-7, 11-16 and 20-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,251,607 to Veschi (hereinafter “Veschi”) in view of U.S. Patent No. 6,539,392 to Rebane (hereinafter “Rebane”).

The Examiner rejected claims 8-10 and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Veschi in view of Rebane and further in view of U.S. Patent No. 7,363,361 to Tewari et al. (hereinafter “Tewari”).

VII. ARGUMENT

A. The Rejections Under 35 U.S.C. §103(a) over U.S. Patent No. 7,251,067 to Veschi in view of U.S. Patent No. 6,539,392 to Rebane are Improper Because No Combination of Veschi and Rebane Teaches or Suggests Each and Every Claim Element.

In the Final Office Action dated October 14, 2009, the Examiner rejected claims 1-7, 11-16 and 20-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,251,607 to

Veschi (hereinafter “Veschi”) in view of U.S. Patent No. 6,539,392 to Rebane (hereinafter “Rebane”). Each of the rejected claims requires the particular steps of receiving a complaint regarding a merchant from a consumer and forwarding that same complaint to the merchant. The Examiner erroneously asserted that Veschi discloses these steps at least in col. 6, line 53 - col. 7, line 5.

Contrary to the Examiner’s characterization, Veschi describes determining if an initial complaint form includes information from both parties in a dispute, and if not then issuing a query to the missing party. Veschi recites “the query at step 406 may comprise an email to the other party or parties informing them of the commenced dispute and providing instructions or a link for the other parties to join in.” Col. 6, line 67 - col. 7, line 3. Appellant respectfully submits that query described in Veschi inviting the other party to join in, does not include a forwarded copy of the complaint.

Veschi describes a dispute resolution method wherein qualified parties (“resolvers” or “squires”) mediate or vote to resolve disputes remotely. A broader audience (“gallery”) may post comments or vote for entertainment value or voyeuristic snooping. See col. 3, lines 4 – 46, col. 4, lines 39 – 47. The dispute system described by Veschi differs from Appellants invention most significantly because Veschi is directed to a particular dispute procedure wherein certain participants, called “Squires” and “the gallery” are involved to systematically ask questions and participate interactively in the dispute. The gallery may be asked to vote on certain questions (col. 13, lines 20 - 23) before voting or commenting on the questions. (Col. 13, lines 29 - 33.)

The Examiner erroneously asserted that the participation of the Squires and gallery in Veschi’s dispute system discloses Appellant’s claimed steps of “receiving from third parties a plurality of ratings indicating said third parties’ opinions of righteousness of said complaint in an electronic format; and displaying an averaged numerical representation of the ratings.” Claim 1, emphasis added.

Appellant respectfully submits that Veschi does not teach or suggest anything about “ratings” and in particular does not teach ratings of the a party’s righteous or righteous of the complaint itself as claimed. Rather, the running tally of votes described in Veschi, whether they are votes of who should win the dispute or answers to Squire questions, are simply a numerical tally, not ratings or righteousness as claimed. Due in part to the interactive nature of the process described by Veschi, which for example serves as a means for entertainment (col. 4, lines 39 -

46), votes made by Squires or gallery members may be considered as a means of gaming and may not have anything to do with righteousness of a complaint.

In contrast, the present application has no gaming aspect and is specifically directed to the righteousness of a merchant or consumer involved in a dispute. The assessment of righteousness is provided on a form which “may request, in a scaled format, such as 1 through 10, who is more credible or who appears more righteous. The central server... provides an averaged numerical representation... The averaged numerical representation may take the form of, for example, a number, a number of graphical representations, such as stars, a gauge or the like.” Paragraph [0013], lines 16 - 30. This allows future internet users to review whether a particular merchant has had many complaints and the extent to which those complaints were deemed righteous. See paragraph [0014], lines 1 - 7.

Appellant respectfully submits that voting for one party over another by one or more voters, as disclosed in Veschi is very distinct from rating the righteousness of a complaint. Ratings can provide benefits that votes do not, such as by providing more granular data, for example. The more granular data may influence merchant behavior or may influence dispute settlements and compromises differently than mere up or down votes could influence them. Further, Appellant respectfully submits that Veschi does not mention merchants or consumers. Veschi’s running tally of votes are responsive to the interactive process may have nothing to do with righteousness and are not a reliable and useful means for evaluating a merchant in contrast to Appellant’s claimed system and method.

The Examiner admitted that “Veschi does not explicitly disclose receiving ratings or displaying an averaged numerical representation of the ratings.” Office Action, page 5, lines 19 - 20. However, the Examiner asserted that Rebane discloses this claim element at least in FIG. 2a, and column 9, lines 66-column 10, line 1, and column 10, lines 31-39, which discloses merchant questionnaires and ratings on a scale of 1 - 10, and FIG. 5a which discloses average scores based on a scale of 1 - 10. Appellant respectfully submits that Rebane is entirely directed to evaluating satisfaction with a merchant’s service and does not teach or suggest anything about rating a merchant’s righteousness in particular with regard to a complaint. Rebane does not mention anything at all about a merchant’s righteousness, and thus does not cure the deficiencies of Veschi set forth above.

Appellant respectfully submits that nothing in Rebane teaches or suggests rating or

ranking righteousness at all, let alone rating or ranking righteousness of a complaint. Nothing in Veschi teaches or suggests rating anything, let alone rating or ranking righteousness of a complaint. No combination of Veschi and Rebane alone or taken together teaches or suggests “receiving from third parties a plurality of ratings indicating said third parties’ opinions of righteousness of said complaint...” or “displaying an averaged numerical representation of the ratings” as claimed.

Certain benefits that are provided by Appellant’s claimed method are described in the specification, for example in paragraph [0014] which recites:

Accordingly, future Internet users can review whether, for example, a particular merchant has had a lot of complaints and if those complaints are deemed righteous by other Internet users that provided opinions, thus providing a quick and easy-to-understand assessment, in averaged numerical representation form, of the merchant's customer services policies and customer contentment. For example, if a merchant has a lot of consumer complaints, and the consumer complaints are rated highly with the averaged numerical representation, then a prospective consumer may decide that such merchant obviously has a customer relations issue and decide not to do business with that merchant. Alternately, if a merchant has only a few consumer complaints and the consumer complaints are rated lowly, whereas the merchant's righteousness is rated highly, via the averaged numerical representation, then the prospective consumer may decide that such complaints are irrelevant and does not represent a customer relations problem with the merchant. Accordingly, the present application provides an unbiased, independent forum that benefits both consumers and merchants in that consumers can proactively evaluate the customer service policies of a merchant, and merchants may be vindicated by other content consumers who do not believe the complaining consumer's complaint to be credible or a representative of the merchant's policies.

Appellant respectfully submits that no combination of Veschi and/or Rebane provide these benefits which are provided by the claimed invention. Neither Veschi nor Rebane suggests any such benefits or motivation to develop a complaint righteousness rating. Vote counts of gallery members, or even votes by resolvers, as described by Veschi do not provide a numerical representation of user’s opinions of righteousness. Nothing in Veschi alone or combined with any of the other cited references teaches or suggests anything about an average numerical representation of user’s opinions of righteousness of a complaint as claimed. Appellant respectfully submits that there is no motivation in the cited references and Appellant submits that

heretofore, nobody has deemed it necessary or beneficial to apply numerical techniques, such as those described in Rebane, for example, to evaluating the righteousness of consumer complaints.

Appellant respectfully submits that Veschi's voting system teaches away from the present invention by having qualified parties vote to resolve disputes. In contrast, Appellant's claimed invention provides a rating system which is simpler and more efficient than Veschi's voting system and eliminates the need for any qualified parties or "resolvers."

Since no combination of Veschi and/or Rebane teaches or suggests each and every element of the claims, and because there is no motivation to combine Veschi and Rebane, Appellant respectfully submits that the rejections of claims 1-7, 11, 14-16 and 22-24 under 35 U.S.C. § 103 are improper and should be overturned.

B. The Rejections Under 35 U.S.C. §103(a) over U.S. Patent No. 7,251,067 to Veschi in view of U.S. Patent No. 6,539,392 to Rebane and Further in view of U.S. Patent No. 7,363,361 to Tewari are Improper Because No Combination of Veschi, Rebane and/or Tewari Teaches or Suggests Each and Every Claim Element.

In the Final Office Action dated October 14, 2009, the Examiner rejected claims 8-10 and 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Veschi in view of Rebane and further in view of U.S. Patent No. 7,363,361 to Tewari et al. (hereinafter "Tewari"). This rejection is respectfully traversed. Tewari discloses a secure content delivery system including using a user's IP address and/or URL to authenticate the user. Col. 1, lines 15 – 20. Appellant respectfully submits that Tewari relates to the unrelated field of secure content delivery in a computer environment, and does not cure the deficiencies of Veschi and/or Rebane by teaching or suggesting "receiving from third parties a plurality of ratings indicating said third parties' opinions of righteousness of said complaint..." or "displaying an averaged numerical representation of the ratings" as claimed.

Since no combination of Veschi, Rebane and/or Tewari teaches or suggests each and every element of the claims, Appellant respectfully submits that the rejections of claims 12-13 and 20-21 under 35 U.S.C. § 103 are improper and should be overturned. R

VIII. CONCLUSION

Claims 1-24 are currently pending in the present application. Each of the independent claims requires at least an element of receiving from third parties a plurality of ratings indicating the third parties' opinions of righteousness of the consumer and/or the merchant in an electronic format; and displaying an averaged numerical representation of the ratings. None of the cited references alone or combined references teaches or suggests the claimed elements of receiving and/or displaying ratings of righteousness of a merchant or consumer. For at least these reasons, Appellant respectfully submits that all of the pending rejections of claims 1-24 are improper and should be overturned. Reconsideration and allowance of claims 1 - 24 is respectfully requested.

Respectfully, Appellant requests withdrawal of the present rejection and issuance of a notice of allowance.

Respectfully submitted,

By: /s/Joseph P. Quinn/

Joseph P. Quinn
Reg. No. 45209

Seyfarth Shaw LLP
Two Seaport Lane
Suite 300
Boston MA 02210-2028
Telephone: 617-946-4833
Fax: 617-946-4801
email: bosippto@seyfarth.com

IX. CLAIMS APPENDIX

1. A method of managing consumer complaints comprising:
receiving a complaint from a consumer in an electronic format regarding a merchant;
forwarding the complaint to the merchant for a merchant's response;
displaying the complaint and a merchant's response on an Internet site;
receiving from third parties a plurality of ratings indicating said third parties' opinions of righteousness of said consumer and/or said merchant in an electronic format; and
displaying an averaged numerical representation of the ratings.
2. The method as claimed in claim 1 further comprising determining the identification of each third party that submits an opinion of righteousness.
3. The method as claimed in claim 2 further comprising determining the identification of the consumer.
4. The method as claimed in claim 3 further comprising determining the identification of the merchant.
5. The method as claimed in claim 4 further comprising comparing the identification of the consumer to the identification of each of said third parties.
6. The method as claimed in claim 5 further comprising comparing the identification of the merchant to the identification of each of said third parties.
7. The method as claimed in claim 6 wherein the step of displaying as an averaged numerical representation further comprises excluding ratings received from said consumer and said merchant.
8. The method as claimed in claim 4 wherein the step of determining the identification of each of said third parties includes determining the respective third party's Internet Protocol address of a computer used by the third party.

9. The method as claimed in claim 8 further comprising comparing the third party's Internet Protocol address to an Internet Protocol address assigned to the merchant.

10. The method as claimed in claim 8 further comprising comparing the third party's Internet Protocol address to an Internet Protocol address assigned to the consumer.

11. The method as claimed in claim 1 wherein the third party ratings include a rating of the credibility of the merchant and the consumer.

12. The method as claimed in claim 1 wherein the third party ratings include a rating of the third party's prior interactions with the merchant.

13. The method as claimed in claim 1 wherein the step of receiving a plurality of ratings includes receiving a scaled numerical representation from the user.

14. A method for managing Internet consumer complaints comprising:
receiving a complaint from an Internet consumer in electronic format regarding the Internet consumer's interaction with an Internet merchant;
forwarding the complaint to the Internet merchant for an Internet merchant's response;
receiving an Internet merchant's response;
displaying the complaint and the Internet merchant's response on a publicly accessible Internet site for a plurality of Internet users' opinions of righteousness, said users being other than said consumer or said merchant;
receiving at least one of the Internet users' opinions of righteousness in electronic format;
and
displaying the Internet users' opinions of righteousness on the Internet site as a numerical representation.

15. The method as claimed in claim 14 further comprising verifying the origination of each Internet user's opinion of righteousness.

16. The method as claimed in claim 15 further comprising displaying the opinions of users other than the consumer or merchant.

17. The method as claimed in claim 15 wherein the step of verifying the origination of each Internet user's opinion of righteousness includes determining the Internet user's Internet Protocol address of a computer used by the Internet user.

18. The method as claimed in claim 16 further comprising comparing the Internet user's Internet Protocol address to an Internet Protocol address assigned to the Internet merchant when the Internet merchant's response was received.

19. The method as claimed in claim 17 further comprising comparing the Internet user's Internet Protocol address to an Internet Protocol address assigned to the Internet consumer when the complaint was received.

20. The method as claimed in claim 14 wherein the Internet users' opinions of righteousness includes an analysis of the credibility of the Internet merchant and the Internet consumer.

21. The method as claimed in claim 14 wherein the Internet users' opinions of righteousness includes an analysis of the Internet user's prior interaction with the Internet merchant.

22. The method as claimed in claim 14 wherein the step of forwarding the complaint to the Internet merchant for the Internet merchant's response includes automatically forwarding the complaint to the Internet merchant.

23. A system for managing Internet consumer complaints comprising:
a central server for receiving an Internet consumer's complaint regarding the Internet consumer's interaction with an Internet merchant;

a means for forwarding the complaint in electronic format to the Internet merchant for any Internet merchant's response;

an Internet web site for displaying the complaint and any Internet merchant's response for Internet users other than said consumer or said merchant to opine as to the righteousness of the Internet consumer and the Internet merchant; and

a means for providing a numerical representation of the Internet users' opinions of righteousness and displaying it on the Internet web site.

24. A method of managing Internet consumer complaints comprising:

providing a central computer server for receiving a complaint from an Internet consumer in electronic format regarding the Internet consumer's interaction with an Internet merchant;

providing a means for forwarding the complaint to the Internet merchant for an Internet merchant's response;

providing an Internet web site for displaying the complaint and any Internet merchant's response on a publicly accessible Internet site for receiving opinions of righteousness, from Internet users other than said consumer or said merchant; and

providing a numerical representation of the Internet users' assessments of righteousness on the Internet web site.

X. EVIDENCE APPENDIX

None.

X1. RELATED PROCEEDINGS INDEX

None.